

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Gary J. & Carol L. Lovan)
Dist. D01, Block 59X, Parcel B00024) Shelby County
Residential Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$70,500	\$295,400	\$365,900	\$91,475

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 14, 2006 in Memphis, Tennessee. In attendance at the hearing were Gary and Carol Lovan, the appellants, and Shelby County Property Assessor's representative Ken Washington.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 9085 Vaughn Cove in Memphis, Tennessee.

The taxpayers contended that subject property should be valued at \$330,512. In support of this position, the taxpayers contended that comparable sales support a value of \$74.98 per square foot or \$330,512.

The assessor contended that subject property should be valued at \$365,900. In support of this position, Mr. Washington asserted that the comparables considered in his analysis support the current appraised value of subject property.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$76.64 per square foot or \$337,800 after rounding. For the reasons discussed below, the administrative judge finds that the sale of the home located at 3755 Vanderschaff Drive constitutes the best evidence of subject property's market value.

Since the taxpayers are appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayers. See State Board of Equalization

Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayers introduced sufficient evidence to establish a prima facie case. However, the administrative judge has disregarded the sale of the home located at 910 Anderton Springs Cove. The administrative judge finds that sales out of foreclosure typically involve an element of distress and are normally rejected by the State Board of Equalization as good indicators of fair market value. See e.g., *Armed Services Mutual Benefit Assoc.* (Assessment Appeals Commission) (Davidson Co., Tax Years 1991 and 1992).

Notwithstanding rejection of that particular sale, the administrative judge finds that the sale of the home located at 3755 Vanderschaff Drive falls within the range established by the various comparable sales in the record and constitutes the best indicator of value for subject property.

Respectfully, the administrative judge finds that Mr. Washington's analysis cannot be accorded any weight. The administrative judge finds Mr. Washington testified that he has never seen the subject property. Moreover, the taxpayers' unrefuted testimony established that the photograph of the home in Mr. Washington's exhibit is *not* their home as he had assumed. Consequently, Mr. Washington's analysis was obviously influenced by his erroneous perception of subject property.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$70,500	\$267,300	\$337,800	\$84,450

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

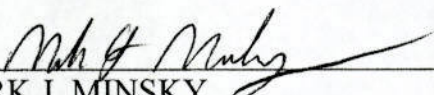
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of

the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 23rd day of February, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Gary J. & Carol L. Lovan
Tameaka Stanton-Riley, Appeals Manager